CF 100/-

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 3154 OF 2003

PETITIONER : Municipal Corporation,
Through Commissioner,
Municipal Corporation
Raigarh (C.G.)

VERSUS

RESPONDENTS : 1. Ajay Agrawal
Json of Shri Brijmohan Agrawal
Aged 25 years,
Contractor,
R/o. Danipara,
Raigarh (C.G.)

P. R. No. 3152/03
Presented by shri R.K. Naik
dated 29.09.03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 3154/ सन् 2003

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

15.11.2003

Shri Kishore Bhaduri, counsel for the petitioner.

The petitioner has preferred this writ petition under Article 227 of the Constitution of India, being aggrieved by the order dated 28.07.2003 passed by the District Judge, Raigarh, by which the learned District Judge has allowed the application of the plaintiff filed under Order 11 Rule 16 for production of documents and directed the petitioner herein to produce documents 1 to 3 which are mentioned in para 7 & 8 of the plaint.

I have heard the learned counsel for the petitioner.

Learned counsel for the petitioner submits that the petitioner cannot be directed or forced to produce documents in order to prove the case of the plaintiff. The plaintiff must prove his own case and he cannot seek remedy or he cannot ask the defendant to produce documents in order to prove his case.

I am of the opinion that there is no force and there is no substance in the argument of the learned counsel for the petitioner for the reason that it is the duty of the parties to produce documents which are relevant and necessary for just decision of the case, whether that party may be defendant even the burden of proof is on the other party. As has been held by the Hon'ble Supreme Court in the case of **Gopal Krishnaji Ketkar vs. Mohamed Haji Latif and others** reported in **AIR 1968 Supreme Court 1413**, in para 5 of the judgment that,

> "Even if the burden of proof does not lie on a party the Court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts at issue."

(23)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.3154/ सन् 2003

आदेश पत्रक (पूर्वानुबद्ध)

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	Therefore, in view of the above, I am of the opinion that the impugned order of the trial Court is not illegal or there is no infirmity in this order. By passing this order, the trial Court has not acceded its jurisdiction or has not exercised any jurisdiction which does not vest in the trial Court. The petition is without force and the same is liable to be dismissed. Accordingly, the petition is dismissed.	

Sd/-
L.C.BHADOO
Judge

Soma

19/11